

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

_____	)	
THEODORE RADWAY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-1203
	)	
LINDSAY LEXUS OF ALEXANDRIA,	)	
<u>et al.</u> ,	)	
	)	
Defendants.	)	
_____	)	

**ORDER**

This matter comes before the Court on Defendants' Motion to Dismiss Plaintiff's Amended Complaint. Defendants specifically ask that Counts I-IV, VII, and X be dismissed and that the individual Defendants, Mesfin Ayele and Vicki Chase, be dismissed.

In Count X, Plaintiff seeks to recover under a theory of unjust enrichment. Plaintiff's Amended Complaint plead the existence of a valid contract, and Plaintiff may not pursue the alternative remedy of unjust enrichment when a valid contract exists between the parties. The Amended Complaint also alleges that the acts committed by the individual Defendants were acts committed in the scope of their employment. According to the allegations in the Amended Complaint, the individual Defendants

acted in their capacity as agents, and no claim is stated against them individually. It is hereby

ORDERED that Defendants' motion is GRANTED as to Count X and the individual Defendants, and Count X and the individual Defendants are DISMISSED from this case. As to all other Counts, Defendants' motion is DENIED.

/s/

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CLAUDE M. HILTON  
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia  
February 13, 2006